

**§ 4003.57 Appeals affecting third parties.**

(a) Before the Appeals Board issues a decision granting, in whole or in part, the relief requested in an appeal, it shall make a reasonable effort to notify third persons who will be aggrieved by the decision of the following:

- (1) The pendency of the appeal;
- (2) The grounds upon which the appeal is based;
- (3) The grounds upon which the Appeals Board is considering reversing the initial determination;
- (4) The right to submit written comments on the appeal;
- (5) The right to request an opportunity to appear in person or through a representative before the Appeals Board and to present witnesses; and
- (6) That no further opportunity to present information to the PBGC with respect to the determination under appeal will be provided.

(b) Written comments and a request to appear before the Appeals Board must be filed within 45 days after the date of the notice from the Appeals Board.

(c) If more than one third party is involved, their participation in the appeal may be consolidated pursuant to the provisions of § 4003.56.

**§ 4003.58 Powers of the Appeals Board.**

In addition to the powers specifically described in this part, the Appeals Board may request the submission of any information or the appearance of any person it considers necessary to resolve a matter before it and to enter any order it considers necessary for or appropriate to the disposition of any matter before it.

**§ 4003.59 Decision by the Appeals Board.**

(a) In reaching its decision, the Appeals Board shall consider those portions of the file relating to the initial determination, all material submitted by the appellant and any third parties in connection with the appeal, and any additional information submitted by PBGC staff.

(b) The decision of the Appeals Board constitutes the final agency action by the PBGC with respect to the determination which was the subject of the

appeal and is binding on all parties who participated in the appeal and who were notified pursuant to § 4003.57 of their right to participate in the appeal.

(c) The decision of the Appeals Board shall be in writing, specify the relief granted, if any, state the bases for the decision, including a brief statement of the facts or legal conclusions supporting the decision, and state that the appellant has exhausted his or her administrative remedies.

**§ 4003.60 Referral of appeal to the Executive Director.**

The Appeals Board may, in its discretion, refer any appeal to the Executive Director of the PBGC for decision. In such a case, the Executive Director shall have all the powers vested in the Appeals Board by this subpart and the decision of the Executive Director shall meet the requirements of and have the effect of a decision issued under § 4003.59 of this part.

**§ 4003.61 Action by a single Appeals Board member.**

(a) *Authority to act.* Notwithstanding any other provision of this part, any member of the Appeals Board has the authority to take any action that the Appeals Board could take with respect to a routine appeal as defined in paragraph (b) of this section.

(b) *Routine appeal defined.* For purposes of this section, a routine appeal is any appeal that does not raise a significant issue of law or a precedent-setting issue. This would generally include any appeal that—

- (1) Is outside the jurisdiction of the Appeals Board (for example, an appeal challenging the plan's termination date);
- (2) Is filed by a person other than an aggrieved person or an aggrieved person's authorized representative;
- (3) Is untimely and presents no grounds for waiver or extension of the time limit for filing the appeal, or only grounds that are clearly without merit;
- (4) Presents grounds that clearly warrant or clearly do not warrant the relief requested;
- (5) Presents only factual issues that are not reasonably expected to affect other appeals (for example, the participant's date of birth or date of hire); or